UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE FLETCHER-TERRY COMPANY, LLC, Plaintiff, vs. ALFA AUTOMATION U.S.A. INC. Defendant.	Case No. Judge:

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, The Fletcher-Terry Company, LLC ("Fletcher-Terry") complains and alleges as follows against Alfa Automation U.S.A. Inc. ("Alfa Automation").

PARTIES

1. Fletcher-Terry is a Connecticut limited liability company with a principal place of business at 91 Clark Drive, East Berlin, Connecticut.

2. Upon information and belief, Alfa Automation is a corporation existing under the laws of the State of Michigan with a principal place of business at 31874 Northwestern Highway, Farmington Hills, Michigan.

JURISDICTION AND VENUE

3. This court has subject matter jurisdiction over this action pursuant to 35 U.S.C. § 1331 and § 1338 because the action arises under the laws of the United States, including 35 U.S.C. § 271 and 15 U.S.C. § 1121. This court has supplemental jurisdiction over Fletcher-Terry's state law claims pursuant to 28 U.S.C. § 1367(a).

4. Upon information and belief, venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(1) because Alfa Automation “resides” in this district within the meaning of 28 U.S.C. § 1391(c) insofar as it is subject to personal jurisdiction in this district. Alternatively, upon information and belief, venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial portion of the actions and/or omissions giving rise to the claim(s) in this action occurred in this district.

5. Upon information and belief, this Court has personal jurisdiction over Alfa Automation because it is incorporated in and maintains its principal place of business in Michigan, has systematic and continuous contacts in Michigan, and conducts business in Michigan including offering for sale or selling products that infringe the patent-in-suit identified below and using the marks identified below.

STATEMENT OF FACTS

6. Fletcher-Terry began as a business in 1868 and today is a leading manufacturer of picture frame assembly machinery, picture frame assembly fasteners, picture frame material cutters and scoring devices, and picture frame material fasteners.

7. Upon information and belief, Alfamacchine Srl was an Italian based manufacturer of frame joining machinery, V-Nail fasteners and framing points.

8. Upon information and belief, Alfamacchine Srl used the trademark ALFAMACCHINE on and in connection with frame joining machines, V-nail fasteners, and framing points, including without limitation, metal fasteners, namely, nails for joining picture framing materials, and picture framing points and glazier points; power and manually operated machines for joining picture frames; power tools used in the production of picture frames (the "Alfamacchine goods").

9. Upon information and belief, Alfamacchine Srl began using the trademark ALFAMACCHINE on the Alfamacchine goods at least as early as 2006.

10. Upon information and belief, Alfamacchine Srl began using the trademark POWER TWIST® on and in connection with metal fasters and lamellar staples at least as early as March 12, 2003.

11. Upon information and belief, AMP was a business located in Vernon Hills, Illinois, USA, which business began in the late 1980s as a distributor for Alfamacchine Srl products.

12. Upon information and belief, in the late 1990s Illinois Tool Works ("ITW") acquired the AMP business and operated AMP as a division of ITW under ITW's corporate umbrella.

13. Upon information and belief, in 2005 ITW acquired Alfamacchine Srl, the Italian based manufacturer of frame joining machinery, V-Nail fasteners and framing points.

14. Upon information and belief, Alfamacchine Srl was using the trademarks ALFAMACCHINE® on and in connection with the Alfamacchine goods and POWER TWIST® on metal fasteners and lamellar stapes at the time it was acquired by ITW.

15. Upon information and belief, subsequent to the acquisition, ITW held Alfamacchine Srl as an indirect wholly owned subsidiary of ITW.

16. Upon information and belief, ITW continued to use trademarks ALFAMACCHINE® on and in connection with the Alfamacchine goods and POWER TWIST® on metal fasteners and lamellar stapes through the AMP division and Alfamacchine Srl subsidiary.

17. In 2012, Fletcher-Terry purchased the AMP division business of ITW and the Alfamacchine Srl subsidiary of ITW, including all common law trademarks and attendant goodwill associated therewith.

18. Since 2012 Fletcher-Terry has operated the acquired Alfamacchine Srl business and the acquired AMP division business to produce and sell underpinners/frame assembly machines, framing points and V-nail fasteners, including the Power Twist® V-Nail fasteners, used in the picture framing and woodworking industries. Fletcher-Terry has continued to use the ALFAMACCHINE® trademark on and in connection with the Alfamacchine goods and the POWER TWIST® on metal fasteners and lamellar staples.

PATENT INFRINGEMENT

19. Fletcher-Terry owns by assignment all right, title and interest in U.S. Patent No. 6,276,886 ("the '886 Patent") entitled *"Laminar Staple for Corner Jointing Profiled Strips"*, issued August 21, 2001 to inventor Mr. Giuseppe Raffoni. The '886 Patent is attached as Exhibit 1.

20. The '886 Patent is in full force and effect.

21. Fletcher-Terry has the sole right to bring this action for infringement of the '886 Patent.

22. Upon information and belief, Alfa Automation develops, manufacturers, markets and sells products that practice the claims of the ’886 Patent.

23. Upon information and belief, Alfa Automation is at least partially owned by Mr. Giuseppe Raffoni.

24. Mr. Raffoni is featured on the website of Alfa Automation. *See* Alfa Automation’s website http://www.alfaautomationusa.com/Home/About, last visited December 6, 2016.

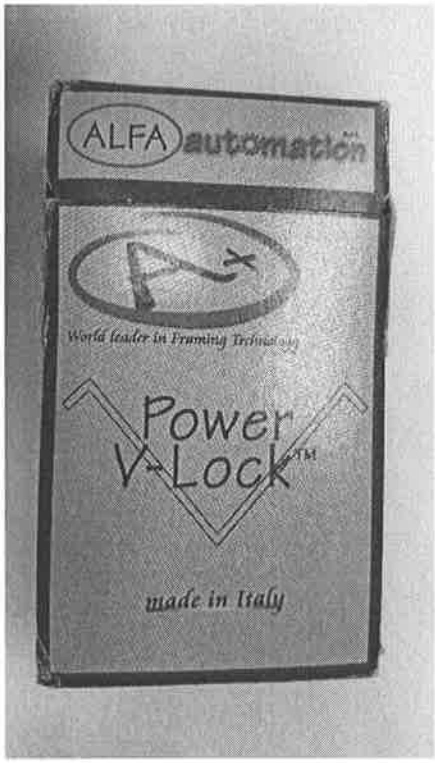
25. Mr. Raffoni is the inventor of the ’886 Patent, and upon information and belief was a shareholder and officer of Alfamacchine Srl in 2005 prior to the sale of Alfamacchine Srl to ITW.

26. Upon information and belief, as a shareholder and officer of Alfamacchine Srl in 2005 at the time of the sale of Alfamacchine Srl to ITW, Mr. Raffoni had actual knowledge that all right, title and interest of the ’886 Patent had been sold to ITW.

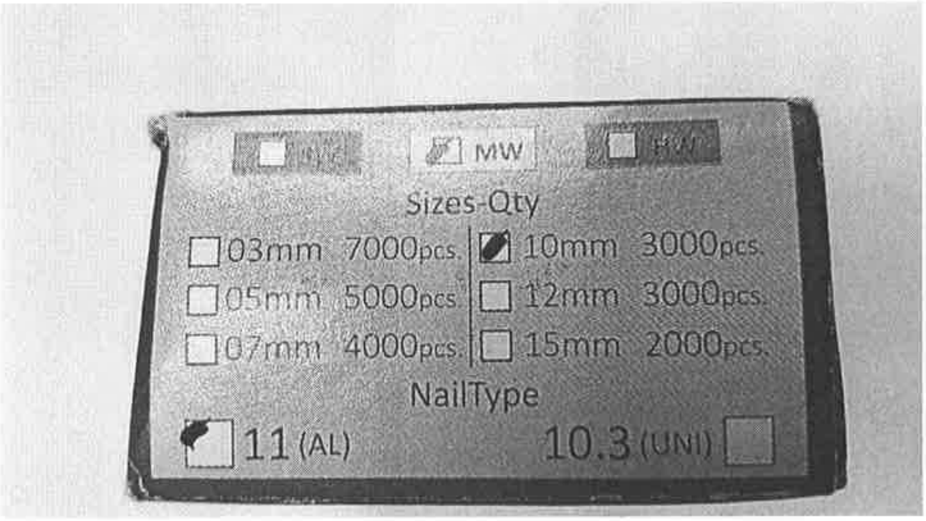
27. Upon information and belief, Alfa Automation had active and constructive notice of the ’886 Patent.

28. Despite having knowledge of the ’886 Patent, Alfa Automation began offering for sale and selling staples that infringe the ’886 Patent, including the

staples contained in the following packaging bearing the name and address of Alfa Automation:

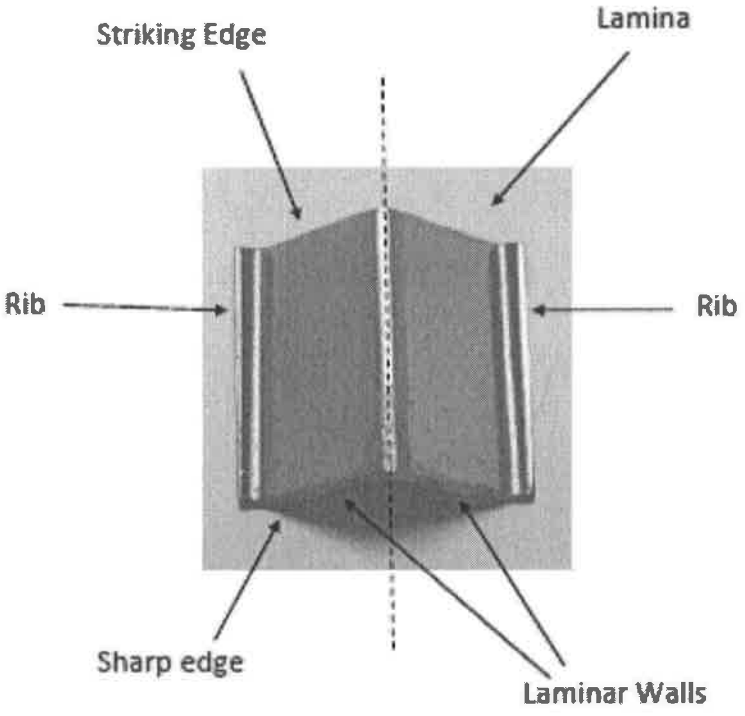

ALFA automation
World leader in Framing Technology
Power V-Lock TM
made in Italy

made in Italy
ALFA automation
Via dell'Artigiano, 12 - 47121 – Forlì (FC) – Italy
Tel. +39-0543-481142 Fax. +39-0543-480770
www.alfaautom.com
info@alfaautom.com
31674 Northwestern Hwy. Farmington Hills, MI 48334
Phone: 1-800-539-2750 Fax: 248-851-8777
www.alfaautomationusa.com
info@alfaautomationusa.com
World leader in Framing Technology
There's no faster way to frame it!

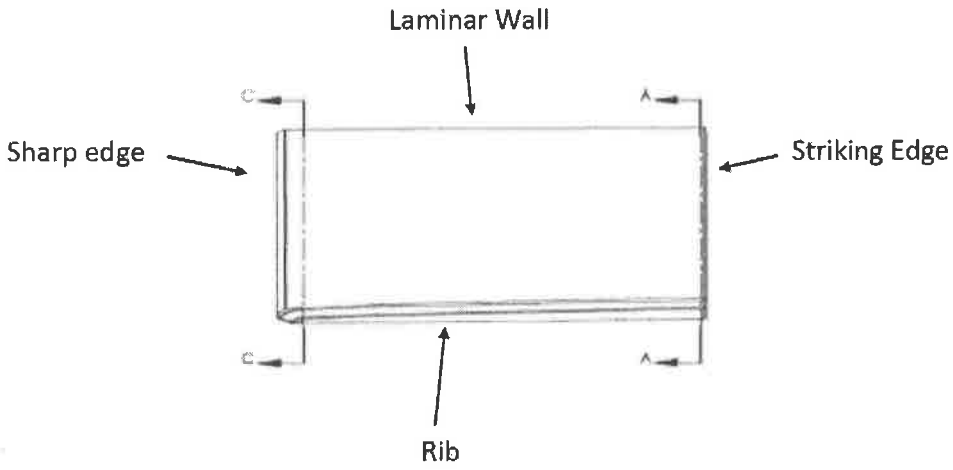

MW
Sizes-Qty
03mm 7000pcs.
05mm 5000pcs.
07mm 4000pcs.
10mm 3000pcs.
12mm 3000pcs.
15mm 2000pcs.
NailType
11 (AL)
10.3 (UNI)

29. Preliminary analysis of a staple contained in the Alfa Automation box illustrated above indicates that the staple infringes the '886 Patent. This preliminary analysis and the following illustrations are for notice purposes under Fed. R. Civ. P. 8 and 12.

30. Below is an annotated pictorial image of the staple from the box shown above indicating that the staple includes a lamina having a centerline plane and folded according to a substantially W-shaped profile having two laminar walls arranged at an angle with respect to said centerline plane and two ribs extending outwardly from said walls:

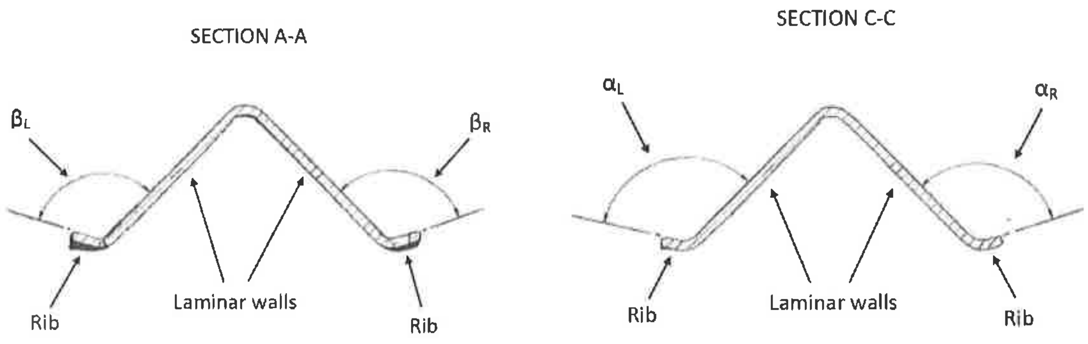


31. Preliminary analysis and measurements were performed on cross sections of a staple contained in the Alfa Automation box along line A-A and along line C-C as shown below:



32. Preliminary analysis and measurements on cross-sections of the staple contained in the Alfa Automation box shown in paragraph 28 along lines A-A and line C-C of the staple shown in the preceding paragraph revealed the following relative shape and dimensions, and that the staple includes the features of said walls and said ribs having opposite ends defining a sharp edge and a striking edge, wherein said ribs are formed by laminar flat border portions of said walls, each of

said ribs extending from a respective wall of said walls to the end of the staple and forming an angle with the respective wall, decreasing from said sharp edge to said striking edge (e.g.,: $\alpha_L > \beta_L$; $\alpha_R > \beta_R$):



33. These illustrations are based upon Fletcher-Terry's preliminary analysis and measurements of a staple in the box illustrated in Paragraph 28, and may be amended based on additional analysis and discovery.

34. Fletcher-Terry filed an action for infringement of the '886 Patent against Alfa Automation in the District of Connecticut on January 25, 2016. The Action was voluntarily dismissed by Fletcher-Terry on April 28, 2016.

35. On December 13, 2016, the U.S. Patent and Trademark Office issued a Certificate of Correction for the '886 Patent correcting mistakes in the claims of the '886 Patent attributable to the U.S. Patent and Trademark Office.

TRADEMARK INFRINGEMENT

36. Fletcher-Terry is the owner of the following trademark registrations relevant to this Complaint:

Mark	Registration No.	Registration Date	Identified Goods
ALFAMACCHINE	4885479	January 12, 2016	Metal fasteners, namely, nails for joining picture framing materials, and picture framing points and glazier points
ALFAMACCHINE	4885480	January 12, 2016	Machines for joining picture frames, namely, power operated machines for joining picture framing materials Machines for joining picture frames, namely, manually operated machines for joining picture framing materials
ALFAMACCHINE	4885481	January 12, 2016	Power tools, namely, mitre-saws and disc sanders, used in the production of picture frames
POWER TWIST	2551614	March 26, 2002	Metal fasteners, namely lamellar staples used for drawing purposes lamellar staples used for drawing purpose

37. Since at least as early as 2006, Fletcher-Terry (by itself and its predecessors in interest) have used the trademarks ALFAMACCHINE and POWER TWIST in the framing industry on and in connection with the Alfamacchine goods as well as metal fasteners and lamellar staples.

38. As the result of the promotion and sale of products identified by the ALFAMACCHINE and POWER TWIST trademarks and the high quality of products offered in connection with the ALFAMACCHINE and POWER TWIST trademarks, the marks have acquired a valuable reputation and are recognized by consumers as originating from and being associated only with products originating from the plaintiff Fletcher-Terry.

39. As a direct result of this usage, the unique and distinctive ALFAMACCHINE and POWER TWIST trademarks have become well known and are associated by the public with Fletcher-Terry and represent valuable business and goods will.

40. On information and belief, Defendant Alfa Automation has been selling framing technology products under the Alfa Automation name since at least as early as May of 2014.

41. On information and belief, Alfa Automation offers the products for use in the framing industry under the Alfa Automation name, including without

limitation: power-operated saws and accessories, machines for frame assembly, manually-operated saws and accessories, automatic gauges.

42. On information and belief, Alfa Automation sells fasteners and staples for use in the framing industry under the Power V-Lock name, including the staple shown in paragraph 30.

43. On information and belief, Alfa Automation's products sold under the Alfa Automation name are sold for the same purposes, to similar consumers, for the same purposes, through the same channels of trade, and in direct competition with Fletcher-Terry's products sold under its ALFAMACCHINE trademarks.

44. Alfa Automation's products sold under its Power V-Lock name are sold for the same purposes, to similar consumers, for the same purposes, through the same channels of trade, and in direct competition with Fletcher-Terry's products sold under its POWER TWIST trademark.

45. On information and belief, Alfa Automation had actual knowledge of Fletcher-Terry's prior use subsequent registration of its ALFAMACCHINE and POWER TWIST trademarks.

CAUSES OF ACTION

COUNT I – INFRINGEMENT OF THE '886 PATENT (35 U.S.C. § 271)

46. Fletcher-Terry repeats and realleges the allegations contained in the prior paragraphs of its Complaint and incorporate them herein by reference.

47. Upon information and belief, Alfa Automation makes, uses, offers for sale, sells and/or imports into the United States for subsequent sale or use, products that directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, one or more claims, including at least claim 1 of the '886 Patent per 35 U.S.C § 271.

48. Upon information and belief, products produced and sold by Alfa Automation, including the Power V-Lock product contained in the box illustrated in Paragraph 28, include a laminar staples each comprising a lamina having a centerline plane and folded according to a substantially W-shaped profile having two laminar walls arranged at an angle with respect to said centerline plane and two ribs extending outwardly from said walls, said walls and said ribs having opposite ends defining a sharp edge and a striking edge, wherein said ribs are formed by laminar flat border portions of said walls, each of said ribs extending from a respective wall of said walls to the end of the staple and forming an angle with the respective wall, decreasing from said sharp edge to said striking edge.

49. On information and belief, Alfa Automation's infringement of the '886 Patent has been and continues to be willful.

50. Fletcher-Terry has been and will continue to be damaged by Alfa Automation's infringement of the '886 Patent.

COUNT II – TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114

51. Fletcher-Terry repeats and realleges the allegations contained in the prior paragraphs of its Complaint and incorporate them herein by reference.

52. Alfa Automation's offering of products for use on framing products under the Alfa Automation name constitutes trademark infringement and give rise to a likelihood of confusion, deception, and mistake among the public.

53. Alfa Automation's offering of products for use on fasteners and staple used in the framing industry under the Power V-Lock name constitutes trademark infringement and give rise to a likelihood of confusion, deception, and mistake among the public.

54. Upon information and belief, Alfa Automation adopted and used the designations Alfa Automation and Power V-Lock with the willful purpose and intent of misleading the public and trading upon the goodwill and reputation associated with the registered ALFAMACCHINE and POWER TWIST trademarks.

55. These acts violate the United States Lanham Act and constitute infringement of Fletcher-Terry's registered ALFAMACCHINE and POWER TWIST trademarks, in violation of 15 U.S.C. § 1114, *et seq*.

56. As a result of Alfa Automation's infringing activities, the public is likely to be confused, misled or deceived as to the source, origin or sponsorship of its products, and Fletcher-Terry has suffered irreparable injury for which it has no adequate remedy at law.

COUNT III – FALSE DESIGNATION OF ORIGIN UNDER 15 U.S.C. § 1125(a)

57. Fletcher-Terry repeats and realleges the allegations contained in the prior paragraphs of its Complaint and incorporate them herein by reference.

58. Alfa Automation's use of the Alfa Automation and Power V-Lock names constitutes the offering of products in interstate commerce using false and misleading descriptions and representations of fact, in violation of 15 U.S.C. § 1125(a).

59. As a result of Alfa Automation's activities, the public is likely to be confused, misled, or deceived, and Fletcher-Terry is now and will continue to suffer irreparable injury to its good will and reputation, for which it has no adequate remedy at law.

60. Upon information and belief, Alfa Automation adopted and used the designations Alfa Automation and Power V-Lock with the knowledge that they were false, misleading, and deceptive, and with the intent to compete unfairly with Fletcher-Terry.

COUNT IV – COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION

61. Fletcher-Terry repeats and realleges the allegations contained in the prior paragraphs of its Complaint and incorporates them herein by reference.

62. This cause of action arises under the common law.

63. Alfa Automation's use of the Alfa Automation and Power V-Lock names in connection with framing products and fasteners used in the framing industry is misleading, confusing to the public, and creates and likelihood of injury to Fletcher-Terry's public image and reputation.

64. Upon information and belief, as a result of Alfa Automation's use of the Alfa Automation and Power V-Lock names in connection with framing products and fasteners used in the framing industry the public is likely to falsely associate the attribute the attributes, characteristics, and reputation of Fletcher-Terry's products with those of Alfa Automations.

65. Upon information and belief, Alfa Automation is using the Alfa Automation and Power V-Lock names for the purpose of deceiving the public and falsely inducing the purchase of Alfa Automation's framing products.

66. The foregoing acts constitute trademark infringement and unfair competition under the common law.

PRAYER FOR RELIEF

WHEREFORE, Fletcher-Terry respectfully requests the following remedies and relief:

A. Enter judgment in favor of Fletcher-Terry against Alfa Automation on all counts;

B. Preliminarily and permanently enjoin Alfa Automation and its partners, officers, agents, servants, employees, attorneys, and all those persons and entities in active concert or participation with them, and their parents, subsidiaries, divisions, successors and assigns, from directly or indirectly infringing the '886 Patent;

C. Enter judgment in the amount of Fletcher-Terry's infringement damages in an amount to be proven at trial per 35 U.S.C. § 284;

D. Preliminarily and permanently enjoin Alfa Automation and its partners, officers, agents, servants, employees, attorneys, and all those persons and entities in active concert or participation with them, and their parents, subsidiaries, divisions, successors and assigns, from directly or indirectly infringing, the names "ALFAMACCHINE" and "POWER TWIST" or any other mark, word or name confusingly similar to or including those names;

E. Order Alfa Automation and its partners, officers, agents, servants, employees, attorneys, and all those persons and entities in active concert or participation with them, and their parents, subsidiaries, divisions, successors and assigns to deliver up for destruction all products, packaging, advertisements, brochures, reports, catalogs, labels and other business and promotional materials that bear any of Fletcher-Terry's trademarks and/or the names "Alfa Automation" and "Power V-Lock" or any other mark, word or name confusingly similar to or including those names;

F. Enjoin Alfa Automation and its partners, officers, agents, servants, employees, attorneys, and all those persons and entities in active concert or participation with them, and their parents, subsidiaries, divisions, successors and assigns from using the names "Alfa Automation" and "Power V-Lock" or any other mark, word or name confusingly similar to or including those names;

G. Order Alfa Automation to account and pay to Fletcher-Terry all profits derived as a result of the activities complained of herein;

H. Order Alfa Automation to pay to Fletcher-Terry damages sustained as a result of the activities complained of herein;

I. Award Fletcher-Terry treble damages as a result of the willful acts of Alfa Automation;

J. Award Fletcher-Terry cost and attorneys' fees and other relief that the Court may consider equitable, including but not limited to 35 U.S.C. §§ 284-285 and 15 U.S.C. § 1117;

K. Award Fletcher-Terry such further relief as this Court may deem just and necessary.

THE PLAINTIFF DEMANDS A TRIAL BY JURY.

Respectfully submitted,

THE PLAINTIFF,
THE FLETCHER-TERRY COMPANY, LLC.

Date: December 15, 2016

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